

SENATE BILL 77

C4

2lr0414

By: **Senator Kelley**

Introduced and read first time: January 16, 2012

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 2, 2012

CHAPTER _____

1 AN ACT concerning

2 **Life Insurance and Annuities – Unfair Claim Settlement Practices – Failure**
3 **to ~~Cross-Check~~ Search Death Master File**

4 FOR the purpose of requiring an insurer that issues ~~or~~, delivers, or renews a policy of
5 life insurance or an annuity contract in the State to perform a ~~cross-check~~
6 comparison of the insurer's in-force life insurance policies, annuity contracts,
7 and retained asset accounts against a certain death master file to identify any
8 death benefit payments that may be due as a result of the death of an insured,
9 annuitant, or account holder; requiring the insurer to perform the ~~cross-check~~
10 comparison at certain intervals and in a certain manner; requiring the insurer
11 to take certain actions, within a certain time period, if the ~~cross-check~~
12 comparison results in a ~~potential~~ certain match with an insured, annuitant, or
13 account holder; providing that an insurer is not required to perform the
14 comparison for a group life insurance policy unless the insurer provides certain
15 services to the policy holder; authorizing an insurer to disclose certain
16 information to certain persons under certain circumstances; prohibiting the
17 insurer from charging certain persons for any fees or costs incurred by the
18 insurer in connection with complying with certain provisions of this Act;
19 authorizing the Maryland Insurance Commissioner to adopt certain regulations;
20 providing that the failure of the insurer to comply with ~~any provision~~ certain
21 provisions of this Act ~~or any regulation adopted under this Act~~ is an unfair
22 claim settlement practice under certain provisions of law; defining ~~a~~ certain
23 ~~term~~ terms; providing for the application of this Act; and generally relating to
24 the payment of death benefits under life insurance policies, annuity contracts,
25 and retained asset accounts.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY adding to
 2 Article – Insurance
 3 Section 16–118
 4 Annotated Code of Maryland
 5 (2011 Replacement Volume)

6 BY repealing and reenacting, with amendments,
 7 Article – Insurance
 8 Section 27–303
 9 Annotated Code of Maryland
 10 (2011 Replacement Volume)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article – Insurance**

14 **16–118.**

15 **(A) ~~IN THIS SECTION, “DEATH MASTER FILE” MEANS:~~ (1) IN THIS**
 16 **SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

17 **(2) “CREDIT LIFE INSURANCE” HAS THE MEANING STATED IN §**
 18 **13–101 OF THIS ARTICLE.**

19 **(3) “DEATH MASTER FILE” MEANS:**

20 **~~(1)~~ (I) THE SOCIAL SECURITY ADMINISTRATION’S DEATH**
 21 **MASTER FILE; OR**

22 **~~(2)~~ (II) ANY OTHER DATABASE OR SERVICE THAT IS AT LEAST**
 23 **AS COMPREHENSIVE AS THE SOCIAL SECURITY ADMINISTRATION’S DEATH**
 24 **MASTER FILE FOR DETERMINING THAT AN INDIVIDUAL REPORTEDLY HAS DIED.**

25 **(4) “DEATH MASTER FILE MATCH” MEANS A MATCH, RESULTING**
 26 **FROM A SEARCH OF A DEATH MASTER FILE, OF A SOCIAL SECURITY NUMBER OR**
 27 **A NAME AND DATE OF BIRTH OF AN INDIVIDUAL ON THE DEATH MASTER FILE**
 28 **WITH THE SOCIAL SECURITY NUMBER OR THE NAME AND DATE OF BIRTH OF AN**
 29 **INSURED, ANNUITANT, OR RETAINED ASSET ACCOUNT HOLDER.**

30 **(5) “PRE-NEED INSURANCE CONTRACT” MEANS A LIFE**
 31 **INSURANCE POLICY OR CERTIFICATE, ANNUITY CONTRACT, OR OTHER**
 32 **INSURANCE CONTRACT THAT, BY ASSIGNMENT OR OTHERWISE, HAS AS A**
 33 **PURPOSE THE FUNDING OF AN AGREEMENT RELATING TO THE PURCHASE OR**

1 PROVISION OF SPECIFIC FUNERAL OR CEMETERY MERCHANDISE OR SERVICES
2 TO BE PROVIDED AT THE TIME OF DEATH OF AN INDIVIDUAL.

3 (6) "RETAINED ASSET ACCOUNT" HAS THE MEANING STATED IN §
4 16-117(A) OF THIS ARTICLE.

5 (B) THIS SECTION DOES NOT APPLY TO:

6 (1) AN ANNUITY CONTRACT THAT:

7 (I) IS USED TO FUND AN EMPLOYMENT-BASED
8 RETIREMENT PLAN OR PROGRAM; AND

9 (II) DOES NOT REQUIRE THE INSURER UNDER THE ANNUITY
10 CONTRACT TO PAY DEATH BENEFITS TO THE BENEFICIARIES OF SPECIFIC PLAN
11 OR PROGRAM PARTICIPANTS;

12 (2) A POLICY OR CERTIFICATE OF LIFE INSURANCE THAT
13 PROVIDES A DEATH BENEFIT UNDER:

14 (I) AN EMPLOYEE BENEFIT PLAN SUBJECT TO THE
15 FEDERAL EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974; OR

16 (II) ANY FEDERAL EMPLOYEE BENEFIT PROGRAM;

17 (3) A PRE-NEED INSURANCE CONTRACT;

18 (4) A POLICY OR CERTIFICATE OF CREDIT LIFE INSURANCE; OR

19 (5) A POLICY OR CERTIFICATE OF ACCIDENTAL DEATH AND
20 DISMEMBERMENT INSURANCE.

21 ~~(B)~~ (C) (1) AN INSURER THAT ISSUES OR, DELIVERS, OR RENEWS A
22 POLICY OF LIFE INSURANCE OR AN ANNUITY CONTRACT IN THE STATE SHALL
23 PERFORM A ~~CROSS-CHECK~~ COMPARISON OF THE INSURER'S IN-FORCE LIFE
24 INSURANCE POLICIES, ANNUITY CONTRACTS, AND RETAINED ASSET ACCOUNTS
25 AGAINST THE LATEST VERSION OF A DEATH MASTER FILE TO IDENTIFY ANY
26 DEATH BENEFIT PAYMENTS THAT MAY BE DUE UNDER THE POLICIES,
27 CONTRACTS, OR RETAINED ASSET ACCOUNTS AS A RESULT OF THE DEATH OF AN
28 INSURED, ANNUITANT, OR RETAINED ASSET ACCOUNT HOLDER.

29 (2) AN INSURER SHALL PERFORM THE ~~CROSS-CHECK~~
30 COMPARISON REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION:

1 (I) AT REGULAR INTERVALS, ON AT LEAST A ~~QUARTERLY~~
2 SEMIANNUAL BASIS; AND

3 (II) IN GOOD FAITH, USING CRITERIA REASONABLY
4 DESIGNED TO IDENTIFY INDIVIDUALS WHOSE DEATH WOULD REQUIRE THE
5 PAYMENT OF BENEFITS BY THE INSURER UNDER A LIFE INSURANCE POLICY,
6 ANNUITY CONTRACT, OR RETAINED ASSET ACCOUNT.

7 (3) FOR A GROUP LIFE INSURANCE POLICY, AN INSURER IS NOT
8 REQUIRED TO PERFORM THE COMPARISON REQUIRED UNDER PARAGRAPH (1)
9 OF THIS SUBSECTION UNLESS THE INSURER PROVIDES FULL RECORD-KEEPING
10 SERVICES TO THE GROUP LIFE INSURANCE POLICY HOLDER.

11 ~~(C)~~ (D) (1) IF A ~~CROSS-CHECK~~ COMPARISON PERFORMED BY AN
12 INSURER UNDER SUBSECTION ~~(B)~~ (C) OF THIS SECTION RESULTS IN A
13 ~~POTENTIAL~~ DEATH MASTER FILE MATCH WITH AN INSURED, ANNUITANT, OR
14 RETAINED ASSET ACCOUNT HOLDER, THE INSURER, WITHIN 90 DAYS AFTER THE
15 ~~CROSS-CHECK~~ COMPARISON WAS PERFORMED, SHALL:

16 (I) CONDUCT A GOOD FAITH EFFORT TO CONFIRM THE
17 DEATH OF THE INSURED, ANNUITANT, OR RETAINED ASSET ACCOUNT HOLDER
18 USING OTHER AVAILABLE RECORDS AND INFORMATION;

19 (II) DETERMINE WHETHER BENEFITS ARE DUE UNDER THE
20 APPLICABLE LIFE INSURANCE POLICY, ANNUITY CONTRACT, OR RETAINED
21 ASSET ACCOUNT; AND

22 (III) IF BENEFITS ARE DUE UNDER THE POLICY, CONTRACT,
23 OR RETAINED ASSET ACCOUNT:

24 1. USE GOOD FAITH EFFORTS TO LOCATE THE
25 BENEFICIARY; AND

26 2. PROVIDE TO THE BENEFICIARY THE
27 APPROPRIATE CLAIMS FORMS AND INSTRUCTIONS NECESSARY TO MAKE A
28 CLAIM.

29 (2) AN INSURER SHALL DOCUMENT THE GOOD FAITH EFFORTS
30 MADE TO:

31 (I) CONFIRM THE DEATH OF AN INSURED, ANNUITANT, OR
32 RETAINED ASSET ACCOUNT HOLDER UNDER PARAGRAPH (1)(I) OF THIS
33 SUBSECTION; AND

1 (II) LOCATE A BENEFICIARY UNDER PARAGRAPH (1)(III)1
2 OF THIS SUBSECTION.

3 (3) TO THE EXTENT PERMITTED BY LAW, AN INSURER MAY
4 DISCLOSE THE MINIMUM NECESSARY PERSONAL INFORMATION ABOUT AN
5 INSURED, AN ANNUITANT, A RETAINED ASSET ACCOUNT HOLDER, OR A
6 BENEFICIARY TO A PERSON THAT THE INSURER REASONABLY BELIEVES MAY BE
7 ABLE TO ASSIST THE INSURER IN LOCATING A BENEFICIARY AS REQUIRED
8 UNDER PARAGRAPH (1)(III)1 OF THIS SUBSECTION.

9 ~~(D)~~ (E) AN INSURER MAY NOT CHARGE AN INSURED, AN ANNUITANT,
10 ~~AN A RETAINED ASSET ACCOUNT HOLDER, A BENEFICIARY, OR ANY OTHER~~
11 PERSON FOR ANY FEES OR COSTS INCURRED BY THE INSURER IN CONNECTION
12 WITH COMPLYING WITH SUBSECTIONS ~~(B) AND (C)~~ (C) AND (D) OF THIS SECTION.

13 ~~(E)~~ (F) THE COMMISSIONER MAY ADOPT REGULATIONS TO
14 IMPLEMENT THIS SECTION, ~~INCLUDING REGULATIONS THAT:~~

15 ~~(1) SPECIFY THE CRITERIA AN INSURER MUST USE TO PERFORM~~
16 ~~THE CROSS CHECK OF A DEATH MASTER FILE REQUIRED UNDER SUBSECTION~~
17 ~~(B) OF THIS SECTION;~~

18 ~~(2) SPECIFY WHAT CONSTITUTES GOOD FAITH EFFORTS FOR~~
19 ~~PURPOSES OF SUBSECTIONS (B)(2)(II) AND (C)(1)(I) AND (III)1 OF THIS SECTION~~
20 ~~AND THE MANNER IN WHICH THOSE EFFORTS MUST BE DOCUMENTED BY AN~~
21 ~~INSURER;~~

22 ~~(3) SPECIFY THE INFORMATION ABOUT BENEFICIARIES UNDER~~
23 ~~LIFE INSURANCE POLICIES, ANNUITY CONTRACTS, AND RETAINED ASSET~~
24 ~~ACCOUNTS THAT AN INSURER MUST OBTAIN AND MAINTAIN IN ITS RECORDS TO~~
25 ~~FACILITATE THE IDENTIFICATION OF AND PAYMENT OF BENEFITS TO THE~~
26 ~~BENEFICIARIES; AND~~

27 ~~(4) ESTABLISH RECORD KEEPING AND REPORTING~~
28 ~~REQUIREMENTS TO DETERMINE COMPLIANCE OF INSURERS WITH THIS~~
29 ~~SECTION.~~

30 ~~(F) THE FAILURE OF AN INSURER TO COMPLY WITH ANY PROVISION OF~~
31 ~~THIS SECTION OR ANY REGULATION ADOPTED UNDER THIS SECTION IS AN~~
32 ~~UNFAIR CLAIM SETTLEMENT PRACTICE UNDER TITLE 27, SUBTITLE 3 OF THIS~~
33 ~~ARTICLE.~~

34 27-303.

1 It is an unfair claim settlement practice and a violation of this subtitle for an
2 insurer or nonprofit health service plan to:

3 (1) misrepresent pertinent facts or policy provisions that relate to the
4 claim or coverage at issue;

5 (2) refuse to pay a claim for an arbitrary or capricious reason based on
6 all available information;

7 (3) attempt to settle a claim based on an application that is altered
8 without notice to, or the knowledge or consent of, the insured;

9 (4) fail to include with each claim paid to an insured or beneficiary a
10 statement of the coverage under which payment is being made;

11 (5) fail to settle a claim promptly whenever liability is reasonably
12 clear under one part of a policy, in order to influence settlements under other parts of
13 the policy;

14 (6) fail to provide promptly on request a reasonable explanation of the
15 basis for a denial of a claim;

16 (7) fail to meet the requirements of Title 15, Subtitle 10B of this
17 article for preauthorization for a health care service;

18 (8) fail to comply with the provisions of Title 15, Subtitle 10A of this
19 article; [or]

20 (9) fail to act in good faith, as defined under § 27–1001 of this title, in
21 settling a first–party claim under a policy of property and casualty insurance; OR

22 **(10) FAIL TO COMPLY WITH THE PROVISIONS OF § 16–118 OF THIS**
23 **ARTICLE.**

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2012.